

JS 44

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Henry Chan

(b) County of Residence of First Listed Plaintiff Montgomery Co., MD

(c) Attorney's (Firm Name, Address, Telephone Number, and Email Address)

Warren & Vullings, LLP, 1603 Rhawn St. Phila. PA 19111
215-745-9800

DEFENDANTS

Academy Collection Services, Inc.

County of Residence of First Listed Defendant Philadelphia Co. PA

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|-----------------------------------------|---------------------------------------|----------------------------|---------------------------------------------------------------|----------------------------|---------------------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input checked="" type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS		FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing. (Do not cite jurisdictional statutes unless diversity):
Fair Debt Collection Practices Act 11 U.S.C. 1692

Brief description of cause:
Violation of FDCPA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S)

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

10/10/2008

SIGNATURE OF ATTORNEY OF RECORD

/s/ Bruce K. Warren, Esq.

bruce@warrenvullingslaw.com

UNITED STATES DISTRICT COURT

APPENDIX F

FOR THE EASTERN DISTRICT OF PENNSYLVANIA DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar

Address of Plaintiff Henry Chan, 2300 Patternbond Dr., Silver Spring, MD 20902

Address of Defendant Academy Collection Services, Inc., 10965 Decatur Road, Philadelphia, PA 19154

Place of Accident Incident or Transaction Philadelphia County, PA

(Use Reverse Side for additional space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed. R.Civ.P.7.1(a)) _____ Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number _____ Judge _____ Date Terminated _____

(Civil cases are deemed related when yes is answered to any of the following questions)

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes ☐ No ☒

3. Does this case involve the validity or infringement of a patent already in suit or in any earlier numbered case pending or within one year previously terminated action in this court?

Yes ☐ No ☒

CIVIL (Place X in ONE CATEGORY ONLY)

A. Federal Question Cases:

- 1 ☐ Indemnity Contract, Marine Contract, and All Other Contracts
- 2 ☐ FELA
- 3 ☐ Jones Act-Personal Injury
- 4 ☐ Antitrust
- 5 ☐ Patent
- 6 ☐ Labor-Management Relations
- 7 ☐ Civil Rights
- 8 ☐ Habeas Corpus
- 9 ☐ Securities Act(s) Cases
- 10 ☐ Social Security Review Cases
- 11 ☒ All other Federal Question Cases

(Please specify) Fair Debt Collection Practices Act

B. Diversity Jurisdiction Cases:

- 1 ☐ Insurance Contract and Other Contracts
- 2 ☐ Airplane Personal Injury
- 3 ☐ Assault, Defamation
- 4 ☐ Marine Personal Injury
- 5 ☐ Motor Vehicle Personal Injury
- 6 ☒ Other Personal Injury (Please Specify)
- 7 ☐ Products Liability
- 8 ☐ Products Liability - Asbestos
- 9 ☐ All other Diversity Cases

(Please Specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Bruce K. Warren Counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs:

☐ Relief other than monetary damages is sought

DATE: 10/10/08 /s/Bruce K. Warren
Attorney-at-Law

89677
Attorney ID.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this Court except as noted above.

DATE: 10/10/08 /s/Bruce K. Warren
Attorney-at-Law

89677
Attorney ID #

APPENDIX I

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIACASE MANAGEMENT TRACK DESIGNATION FORM

CIVIL ACTION

Henry Chan

v.

Academy Collection Services, Inc.

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus - Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security- Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration - Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos - Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management - Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management - Cases that do not fall into any one of the other tracks. (x)

10/10/08

Date

/s/Bruce K. Warren

Attorney-at-law

Plaintiff

Attorney for

215-745-9800

Telephone

215-745-7880

FAX Number

Bruce@warrenvullingslaw.com

E-Mail Address

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

HENRY CHAN)	Case Number
)	
)	
Plaintiffs,)	
)	CIVIL COMPLAINT
vs.)	
)	
ACADEMY COLLECTION SERVICES,)	JURY TRIAL DEMANDED
INC.)	
)	
Defendant.)	

COMPLAINT AND JURY DEMAND

COMES NOW, Plaintiff, Henry Chan, by and through his undersigned counsel, Bruce Warren of Warren & Vullings, LLP, complaining of Defendant, and respectfully avers as follows:

I. INTRODUCTORY STATEMENT

1. Plaintiff, Henry Chan (hereinafter "Plaintiff"), is an individual consumer and brings this action for actual and statutory damages and other relief against Defendant for violations to the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. ("FDCPA"), which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.

II. JURISDICTION

2. Jurisdiction of this court arises under 15. U.S.C. § 1692k(d) and 28 U.S.C. §1337.

3. Venue in this District is proper in that the Defendant transacts business here and maintains its corporate office in Philadelphia, PA.

III. PARTIES

4. Plaintiff, Henry Chan is an adult natural person residing at 2300 Patternbond Dr., Silver Spring, MD 20902.

5. Defendant, Academy Collection Services, Inc. (“Defendant”), at all times relevant hereto, was a collection agency engaged in the business of collecting debt within the Commonwealth of Pennsylvania, with its principal place of business located at 10965 Decatur Road, Philadelphia, PA 19154.

6. Defendant is engaged in the collection of debts from consumers using the telephone and mail. Defendant regularly attempts to collect consumer debts alleged to be due to another. Defendant is a “debt collector” as defined by the FDCPA, 15 U.S.C. §1692a(6).

IV. FACTUAL ALLEGATIONS

7. On March 12, 2008 at 2:06 p.m., Plaintiff began receiving calls from Defendant looking for a man named Piyarat Bumrungsiri. The number Defendant called from is 215-320-0424.

8. Plaintiff does not know anyone by that name nor has Plaintiff ever known anyone by that name and he expressed same when defendant contacted his cell phone.

9. Plaintiff began to receive a series of phone calls from Defendant as follows: March 31, 2008 at 2:25 p.m., April 1, 2008 at 3:13 p.m., April 2, 2008 at 12:20 p.m., April 2, 2008 at 1:03 p.m. and April 4, 2008 at 10:51 a.m. Each time an automated recording was left for Piyarat Bumrungsiri and a reference number of 14787145 was given.

10. Plaintiff sent a letter to Defendant on April 2, 2008 regarding the calls to his cell phone because they were both annoying and costly to him. Defendant confirmed in writing that they had received this letter on April 10, 2008. Please see **Exhibit “B”** attached hereto.

11. Plaintiff called Defendant on April 8, 2008 and left a message for Complaint Manager, Nancy Fortino. He requested that the calls to his cell phone cease. Defendant acknowledged in writing the message from Plaintiff. Please see **Exhibit "B"** attached hereto.

12. Notwithstanding the above, on September 26, 2008 at 1:45 p.m., Plaintiff received a call from Defendant (215-320-0424) to his cell phone.

13. On September 27, 2008 at 7:59 a.m., Plaintiff received a call from Defendant to his cell phone. The number Defendant called from was 856-668-4530. A female agent of Defendant left a message in which she addressed Henry Chan by name and expressed a desire to reach Piyyarat Bumrungsiri through Plaintiff. She asked Plaintiff to call her back at 866-227-0605 extension 2685. Defendant's representative failed to give her name or the name of the agency she was calling from.

14. On September 29, 2008 at 9:49 a.m., Plaintiff received a call from Defendant (856-668-4525) to his cell phone.

15. Plaintiff acquired his cell phone number in January of 2004. According to Defendant's written statement of May 8, 2008, in which Defendant claimed to have removed Plaintiff's number from their file, Defendant did not receive this collection account until March 6, 2008. Defendant was clearly using outdated information that had not been confirmed.

16. Defendants' harassing, deceptive and rude third party communications to Plaintiff are violations of the FDCPA.

COUNT I

FDCPA VIOLATION 15 U.S.C. § 1692 et seq.

17. The above paragraphs are hereby incorporated herein by reference.

18. Defendant violated the FDCPA. Defendant's violations include, but are not limited to, the following: 15U.S.C. §1692 b(1), b(3), c(a)(1), c(b), c(c), d, d(5), d(6), e and f.

WHEREFORE, Plaintiff respectfully requests that this court enter judgment in their favor and against Defendant and Order the following relief:

- a. Declaratory judgment that the Defendant's conduct violated the FDCPA;
- b. Actual damages;
- c. Statutory damages pursuant to 15 U.S.C. §1692k;
- d. Reasonable attorney's fees and costs of suit pursuant to 15 U.S.C. §1692k; and
- e. Such addition and further relief as may be appropriate or that the interests of justice require.

V. JURY DEMAND

Plaintiff hereby demands a jury trial as to all issues herein.

Respectfully submitted,

WARREN & VULLINGS, LLP

Date: October 9, 2008

BY: /s/Bruce K. Warren
Bruce K. Warren, Esquire
Warren & Vullings, LLP
1603 Rhawn Street
Philadelphia, PA 19111
215-745-9800 Fax 215-745-7880
Attorney for Plaintiffs

EXHIBIT “A”

2300 Patternbond Dr.
Silver Spring, MD 20902
April 2, 2008

Academy Services
ATTN: Nancy Fortino
10965 Decatur Rd.
Philadelphia PA 19154

Ms Fortino (or whatever your real name is):

I want you to remove my cell phone number (240-401-7117) from your database. I have been getting pre-recorded debt collection notices to some person whom I don't even know on my cell phone. The phone number from which you have been calling me is 215-320-0424. Dates and Times are as follows:

4/2/08 1:03 p.m.
4/2/08 12:20 p.m.
4/1/08 3:13 p.m.
3/31/08 2:25 p.m.
3/12/08 2:06 p.m.

My repeated requests to you have not stopped the call. The receptionist, who refused to say her name, at 215-320-0424 said that you are the person to whom I should address my complaint. I am NOT the person addressed in the pre-recorded message, and I do NOT have any delinquent bills. I want you to STOP ringing my cell phone immediately! These unwanted calls are annoying me and costing me money.

If you persist, you will be violating the Fair Debt Collection Practices Act.

Your truly,



Henry S. Chan

cc:
Office of Attorney General
Bureau of Consumer Protection
14th Floor, Strawberry Square
Harrisburg, PA 17120

Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202

Federal Trade Commission
Consumer Response Center
600 Pennsylvania Avenue, NW
Washington, DC 20580

EXHIBIT “B”

05/14/2008 WED 14:53 FAX 215 281 3535

ACS

001

ACADEMY

Collection Service

May 8, 2008.

Via Facsimile 410-333-3866

Karen D. Brooks, Financial Regulation Examiner
Department of Labor, Licensing and Regulation
Office of the Commission of Financial Regulation
500 North Calvert Street, Suite 402
Baltimore, MD 21202-3651

RE: Henry Chan
Your File #: DR-08-2061
Our File #: 14787145

Dear Mr. Carroll:

Having reviewed our file and the above referenced complaint, we offer the following:

- 1) Our client Citibank (South Dakota) N.A., placed this account in our office on March 6, 2008, belonging to Piyyarat Bumrungsiri. Academy did not have a valid telephone number for Piyyarat Bumrungsiri, and conducted a public records search to obtain possible telephone numbers.
- 2) On April 8, 2008, Nancy Fortino, Complaint Manager, received a voice mail message from Mr. Chan advising us that we were calling the wrong number. Ms. Fortino immediately removed Mr. Chan's telephone number from our file and we did not call there again. This was the first notice that we received that we were calling the wrong number. No one from Academy has ever spoken to Mr. Chan, except for the receptionist that transferred Mr. Chan's call to our complaint department.
- 3) On April 10, 2008, we received a letter from Mr. Chan (a copy of which is attached to the complaint) advising our office that we were calling the wrong number. No action needed to be taken as Mr. Chan's telephone number had already been removed from our file.



10965 Decatur Road
Philadelphia, PA 19154
(215) 281-7500

05/14/2008 WED 14:53 FAX 215 281 3535

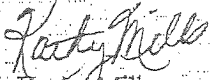
ACS

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4) Academy regrets any inconvenience our calls may have caused Mr. Chan.

Thank you for your cooperation in this matter. Please feel free to contact me at 1-866-227 0303 ext. 2201 if I can be of further assistance.

Sincerely,



Kathy Mills

Paralegal